

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
EASTERN DIVISION

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|------------------------------|---|--------------------------------|
| GENE COGGINS, |) | |
| |) | |
| Plaintiff, |) | |
| |) | |
| vs. |) | CIVIL ACTION NO. 3:07cv597-WHA |
| |) | |
| DARYL KIZZIAH and wife, LYNN |) | |
| KIZZIAH, |) | |
| |) | |
| Defendants. |) | |

ORDER

This case is before the court on the Complaint and Motion to Appeal Order filed by the Plaintiff, together with related motions.

A review of this file shows that the Plaintiff, Gene Coggins, and others filed suit in this court against Daryl and Lynn Kizziah and others in 2004. *Coggins, et al. v. Kizziah, et al.*, Case No. 3:04cv505-F. This suit involved a dispute over deeds to real property located in Tallapoosa County, Alabama. Chief United States District Judge Mark E. Fuller, to whom that case was assigned, dismissed the case without prejudice for want of subject matter jurisdiction, holding that this was a dispute involving state law for which the federal court had no jurisdiction.

Following dismissal of the 2004 action in this court, the Defendants herein filed suit against the Plaintiff herein and others in the Circuit Court of Tallapoosa County, Alabama, involving the same land dispute. *Daryl Kizziah and wife Lynn Kizziah v. Gene Coggins, et al.*, Civil Action No. CV-04-94. On June 20, 2007, Ray D. Martin, Circuit Judge of Tallapoosa County, entered final judgment in that case in favor of Daryl and Lynn Kizziah, holding that the Kizziahs had title to the real estate in question.

In this suit, Gene Coggins seeks to appeal from the order of the Circuit Court of Tallapoosa County, Alabama, and to re-litigate this entire matter.

Federal courts are courts of limited jurisdiction, and this court has no appellate jurisdiction over, or legal authority to review, the final judgment of the Circuit Court of Tallapoosa County, Alabama. Furthermore, a review of the Complaint shows no basis whatsoever to independently establish jurisdiction in this court to re-litigate the issue of the ownership of the land in question. Ownership of the land has been established conclusively by the Circuit Court of Tallapoosa County, Alabama, to rest in Daryl Kizziah and Lynn Kizziah, subject only to any available appellate review through the Alabama state court system.

While Daryl Kizziah and wife Lynn Kizziah have filed an Answer and Motion to Dismiss, together with a Motion for Sanctions, in this case, the court finds that no summons has actually been issued to them by this court, for the reason that there has not yet been any ruling on the Plaintiff's Motion for Leave to Proceed In Forma Pauperis. Therefore, there has been no legal need for the Defendants to respond to the Complaint and to submit to the court's jurisdiction. An initial review of the Complaint and the Motion for Leave to Proceed In Forma Pauperis would have resulted in this case being dismissed prior to service of process, for want of jurisdiction. Therefore, the imposition of sanctions in the form of requiring the payment of attorney's fees would not be appropriate. However, the Plaintiff, Gene Coggins, is advised that if he should ever again attempt to re-litigate this matter by filing any further pleadings in this court against the Defendants, Daryl and Lynn Kizziah, involving this land dispute, he will then subject himself to the possibility of severe monetary sanctions for instituting frivolous litigation.

It is hereby ORDERED as follows:

1. Plaintiff's Motion for Leave to Proceed In Forma Pauperis is GRANTED.
2. Plaintiff's Motion to Appeal Order, contained in Doc. #1, is DENIED.
3. This case is DISMISSED for want of federal court jurisdiction.
4. All other motions are DENIED as moot.

DONE this 11th day of December, 2007.

/s/ W. Harold Albritton

W. HAROLD ALBRITTON
SENIOR UNITED STATES DISTRICT JUDGE